



Senate

General Assembly

File No. 846

January Session, 2009

Substitute Senate Bill No. 1035

Senate, April 30, 2009

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING A SURETY BOND GUARANTEE PROGRAM
FOR EMERGING CONTRACTORS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009*) (a) As used in this
2 section:

3 (1) "Emerging contractor" means a contractor who (A) has not been
4 prequalified pursuant to section 4a-100 of the general statutes, and (B) is
5 unable to (i) obtain bonding required under section 49-41 of the general
6 statutes, as amended by this act, to bid on a contract or perform work
7 pursuant to a contract for the construction, reconstruction, alteration,
8 remodeling, repair or demolition of any public building or any other
9 public work by the state or a municipality, except a public highway or
10 bridge project or any other construction project administered by the
11 Department of Transportation, or (ii) perform work under such a
12 contract as a substantial subcontractor;

13 (2) "Contract" means an agreement for work for the state or a
14 municipality that is estimated to cost more than five hundred
15 thousand dollars and is funded, in whole or in part, by state funds;
16 and

17 (3) "Substantial subcontractor" means a person who performs work
18 with a value in excess of five hundred thousand dollars for a
19 contractor pursuant to a contract for work for the state or a
20 municipality which is estimated to cost more than five hundred
21 thousand dollars.

22 (b) The Commissioner of Administrative Services shall establish a
23 Surety Bond Guarantee Program for emerging contractors.
24 Participation in the program shall satisfy the bond requirements
25 pursuant to subsection (a) of section 49-41 of the general statutes. An
26 emerging contractor shall only be eligible for the Surety Bond
27 Guarantee Program for a period not exceeding five years from the date
28 of the emerging contractor's initial application for the program.

29 Sec. 2. Section 49-41 of the general statutes is amended by adding
30 subsection (g) as follows (*Effective October 1, 2009*):

31 (NEW) (g) An emerging contractor participating in the Surety Bond
32 Guarantee Program established pursuant to section 1 of this act shall
33 not be required to comply with the provisions of this section.

| | | |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2009</i> | New section |
| Sec. 2 | <i>October 1, 2009</i> | 49-41 |

LAB Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 10 \$ | FY 11 \$ |
|----------------------------------|-------------|-------------|-------------|
| Dept. of Administrative Services | GF - Cost | Significant | Significant |

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill requires the Department of Administrative Services (DAS) to establish a surety bond guarantee program for emerging contractors.

This bill will result in a significant cost as DAS does not currently administer anything similar to a surety bond guarantee program. The significant costs to DAS are associated with establishing and operating the program, and the program's capitalization/reserve costs.

DAS will need to hire an insurance consultant to establish program guidelines, underwriting standards, and templates for surety bond contracts consistent with industry practice. This one-time cost is estimated to be \$200,000. Supporting insurance software, licensing fees, and equipment to establish a surety bond company are estimated to cost an additional \$60,000.

To operate the program, DAS will need to hire staff. Depending on the number of applicants that use the program, DAS would require 2-3 commercial contract underwriters (approximately \$80,000 - \$90,000 annual salary, plus benefits), and a claim adjusting service (cost of approximately \$75,000, depending on volume). Additionally, DAS would need to contract with an actuarial firm to handle the numerous mandatory reporting requirements imposed upon surety companies, at

a cost of approximately \$80,000 per year.

This program would also require funds to guarantee the emerging contractors' work that DAS will be bonding. The amount of reserves required for this new program would depend on the annual value of bonds written. Based on the annual value of construction contracts awarded that involve state funds and the capitalization rate required to responsibly guarantee the work undertaken by emerging contractors, it is estimated that the program would require a reserve fund of at least \$10 million.

Sources: Department of Administrative Services

OLR Bill Analysis**sSB 1035*****AN ACT CONCERNING A SURETY BOND GUARANTEE PROGRAM FOR EMERGING CONTRACTORS.*****SUMMARY:**

This bill requires the commissioner of administrative services to establish a surety bond guarantee program for emerging contractors. Participation in the program substitutes for meeting the bonding requirements for public works contracts under current law. (As used in this bill, public works contracts are for the construction, reconstruction, alteration, remodeling, repair or demolition of public buildings or other public works by the state or a municipality, other than highway, bridge, or other construction projects administered by the Department of Transportation.) An emerging contractor is only eligible to participate in the program for five years from the date of its initial application for the program.

Under the bill, an “emerging contractor” is one who:

1. has not been prequalified under existing law for state-funded public works contracts costing more than \$500,000 and
2. is unable to (a) obtain bonding required by law to bid on a contract or perform work under such a contract or (b) perform work under such a contract as a substantial subcontractor.

Under the bill, a “substantial subcontractor” is one who performs work valued at more than \$500,000 for a contractor under a contract for work for the state or a municipality that is estimated to cost more than \$500,000.

EFFECTIVE DATE: Upon passage

BACKGROUND***Legislative History***

On April 9, the Senate referred the bill (file 428) to the Labor and Public Employees Committee, which substituted the above provisions for the original bill. The original bill exempted subcontractors from bonding requirements for state and municipal public works projects when the firm selected as the general contractor had filed the bond.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2009)

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 0 (04/16/2009)